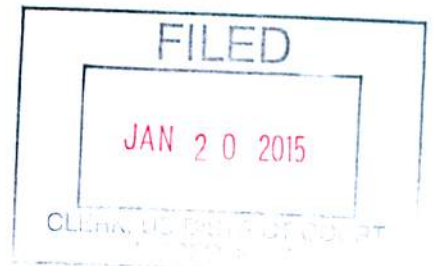


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



RODRIQUEZ L. JOHNSON,
Petitioner,

v.

CIVIL ACTION NO. 2:14-cv-27

HAROLD W. CLARKE, Director,
Virginia Department of Corrections,
Respondent.

FINAL ORDER

Before the Court is a Petition for a Writ of *Habeas Corpus* filed pursuant to 28 U.S.C. § 2254 and the Respondent's Motion to Dismiss the Petition. The *pro se* Petitioner challenges the constitutionality of his January 30, 1997 conviction of first degree murder, robbery, and two firearm offenses. The Petitioner was sentenced to seventy-three years of imprisonment.

The matter was referred for disposition to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and (C), Federal Rule of Civil Procedure 72(b), Eastern District of Virginia Local Civil Rule 72, and the April 2, 2002, Standing Order on Assignment of Certain Matters to United States Magistrate Judges. In a Report and Recommendation filed on December 9, 2014, the Magistrate Judge recommended that the Court grant the Motion to Dismiss, finding the Petitioner's claims to be time-barred and procedurally defaulted. ECF No. 17. The parties were advised of their right to file written objections to the Report and Recommendation. On December 23, 2014,¹ the Petitioner filed his objection to the Report and Recommendation. ECF No. 18. The Respondent did not file an objection, and the time to do so has expired.

¹ The objection was filed as of the date the Petitioner certified that he placed it in the prison mailing system. See ECF No. 18 at 9; see also *Houston v. Lack*, 487 U.S. 266, 276 (1988) (articulating the prison mailbox rule).

Pursuant to Federal Rule of Civil Procedure 72(b)(3), the Court has reviewed *de novo* the Magistrate Judge's Report and Recommendation and the Petitioner's objections. After review, the Court fully accepts the findings and recommendations of the Magistrate Judge, and accordingly, hereby **ADOPTS** and **APPROVES** the Report and Recommendation, ECF No. 17. It is **ORDERED** that the Respondent's Motion to Dismiss, ECF No. 9, is **GRANTED**, and that the Petition, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that Judgment be entered in favor of the Respondent.

The Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of the Court at the Walter E. Hoffman United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date Judgment is entered. Because the Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b)(1), the Court declines to issue a certificate of appealability. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

The Clerk is **DIRECTED** to forward a copy of this Order to the Petitioner and counsel of record for the Respondent.

It is so **ORDERED**.



Arenda L. Wright Allen
United States District Judge

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

Date:

January 20, 2015